

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-5, 7, 8, 10 and 12-15 are pending in the application, with claims 1, 5, 12 and 13 being the independent claims. Claims 6, 9 and 11 were previously cancelled without prejudice to or disclaimer of the subject matter therein. Claims 4 and 10 have been withdrawn from consideration. Claims 1, 2, 3, 5, 7, 12, 13, 14 and 15 have been amended by this paper. The amendments are supported by the specification and drawings of the application, and are believed to introduce no new matter. Entry of the amendments is respectfully requested.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***Rejection under 35 U.S.C. § 112***

The Examiner has rejected claims 1-3, 5, 7, 8 and 13-15 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Specifically, the Examiner has indicated that it is not clear what scope of structure should be included by the limitation of "switching means". While Applicant submits that the recited "switching means" is clear from the specification and includes the structure that has been disclosed therein, as well as its equivalents, Applicant has amended the limitation in all of the rejected claims to instead recite "selecting means". Applicant submits that the amended

claim language complies with the requirements of 35 U.S.C. §112, second paragraph, and respectfully requests acceptance and entry of the same.

***Double Patenting Rejection***

The Examiner has rejected claims 1-3, 5, 7, 8, 10, and 13-15 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,588,811 to (and commonly owned by) Applicant. In response to the rejection, Applicant submits herewith a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c). Acceptance and entry of the Terminal Disclaimer, and withdrawal of the double patenting rejection, is respectfully requested.

***Rejections under 35 U.S.C. § 102***

Claims 5, 7, 8 and 13-15 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,790,197 to Parker ("the Parker patent"). Although the Examiner has rejected independent, as well as dependent, claims, Applicant's remarks are directed to independent claims 5 and 13 only, since the remaining claims are patentable based on their dependency on the independent claims.

Independent claim 5, as hereby amended, calls for a magnetic door latch for use with a door and doorframe combination, where the door has an edge surface disposed in facing relationship with a surface of the doorframe when the door is closed within and encompassed by the doorframe. The magnetic latch comprises (1) a first magnet, wherein the first magnet is mounted in the edge surface of the door, (2) a second magnet, wherein the second magnet is a permanent magnet mounted in the surface of the

doorframe disposed in facing relationship with the edge surface of the door when the door is closed within and encompassed by the doorframe, and (3) selecting means for selectively orienting the first magnet between a first position of repulsion and a second position of attraction between said first magnet and said second magnet, wherein in the first position of repulsion the first magnet and the second magnet decelerate the door as the door is moved towards and closed within the doorframe.

The Examiner has taken the position that the Parker patent discloses a first magnet **15** mounted on a door **11**, a second magnet **13** mounted on a structure opposing the door (doorframe) **10**, and a switching means **18,22** that is capable of decelerating the door, if the handle disclosed in the Parker patent is held in the position of Figure 2 while the door is being closed.

First and foremost, the Parker patent does not disclose a magnetic door latch for use with a *door and doorframe combination, where the door has an edge surface disposed in facing relationship with a surface of the doorframe when the door is closed within and encompassed by the doorframe.* On the contrary, the Parker patent discloses a door for a refrigerator brought into magnetic contact with the walls of the refrigerator body to close the refrigerator. The door of the refrigerator, however, has no edge surface disposed in facing relationship with a surface of the wall of the refrigerator body, nor can the door of the refrigerator be closed within and encompassed by the walls of the refrigerator, as recited in amended claim 5. While the Parker patent does appear to disclose a first magnet on a door, the first magnet is not mounted on the *edge surface* of a door that fits within a doorframe, as claimed. Instead, the first magnet **15** is mounted on the *interior surface* of door **11**. See Figures 1 and 2 of the Parker patent.

In addition, the Parker patent does not disclose a second magnet mounted in the surface of the doorframe disposed in facing relationship with the edge surface of the door when the door is closed within and encompassed by the doorframe. Indeed, the Parker patent discloses no *doorframe* at all. All that the Parker patent discloses is a stationary body portion 10 with a magnet strip 13 brought into contact with magnet strip 15 when hinged door 11 is closed. See Figures 1 and 2, as well as column 1, line 62 through column 2, line 15. Stationary body portion 10 does not, however, extend about and encompass the edge surface of hinged door 11 when the door is in a closed position within the doorframe, nor is magnet strip 13 mounted in a surface disposed in facing relationship with the edge surface of the door when the door is closed, as claimed. In the absence of such structure, Applicant submits that the Parker patent does not anticipate the invention of independent claim 5. Reconsideration and withdrawal of the rejection, as applied to this claim, is therefore, respectfully requested.

Like independent claim 5, independent claim 13 also calls for a magnetic door latch for use with a door and doorframe combination, where the door has an edge surface disposed in facing relationship with a surface of the doorframe when the door is closed within and encompassed by the doorframe. The magnetic latch comprises, among other things, a first permanent magnet mounted in the edge surface of the door and a second permanent magnet mounted in the surface of the doorframe disposed in facing relationship with the edge surface of the door, when the door is closed within and encompassed by the doorframe.

As noted above with respect to independent claim 5, the Parker patent fails to teach a magnetic latch for use with a door and doorframe combination, where the door

has an edge surface disposed in facing relationship with a surface of a doorframe when the door is closed within and encompassed by the doorframe (stated differently, a door and doorframe combination where the door fits within a doorframe). Instead, and as argued above, the Parker patent discloses a hinged door for a refrigerator brought into magnetic contact with the wall of the refrigerator body to close the refrigerator. The door of the refrigerator, however, has no first magnet mounted in an edge surface disposed in facing relationship with a surface of the refrigerator body when the door is closed within and encompassed by the wall, as the door is not capable of being closed within and encompassed by the wall of the refrigerator. Similarly, the wall of the Parker refrigerator fails to disclose a second magnet mounted in a surface of the wall disposed in facing relationship with the edge surface of the door when the door is closed. For the same reasons that independent claim 5 is patentable over the Parker patent, so too is independent claim 13. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection under Section 102(b), as applied to this claim.

Claims 1, 2, 5, 7, 8 and 12-15 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,797,655 to Morehouse (the Morehouse patent). According to the Examiner, the Morehouse patent discloses a first magnet **69** or **70** as shown in Figure 14, a second magnet **63** or **64** as shown in Figure 12, and a switching means taking the form of a magnet holder comprising a bottom plate **71** as shown in Figure 14 and two opposing sidewalls extending from the bottom (encasing magnets **69** shown in Figure 12). Applicant respectfully disagrees with the Examiner's rejections based on the Morehouse patent.

Independent claim 1, as hereby amended, calls for a magnetic door stop, comprising a first magnet mounted on a door, a second magnet mounted on a structure opposing the door, and selecting means to allow a user to selectively orient one of the first magnet or second magnet between a first position of repulsion between the first and second magnets and a second position of attraction between the first and second magnets, wherein the selecting means is a magnet holder which receives and permits rotatable movement of either the first magnet or the second magnet with respect to and within the holder.

First, Applicant submits that the Morehouse patent fails to anticipate the invention of amended claim 1, as this claim calls for a magnetic **door stop**. The Morehouse patent, on the other hand, discloses a safety lock for a refrigerator, constructed and arranged so that the door may be readily opened from the inside, in the event a child crawls into the refrigerator. The Morehouse patent also provides for an improved safety lock for refrigerators which includes opposed permanent magnets carried one by the wall of the refrigerator and the other by the door. The lock also includes an interposed metal element which is fixed relative to a shelf so that when the refrigerator is abandoned and the shelf is removed, the opposed magnets will have insufficient power to keep the door closed.

While the Morehouse patent arguably discloses a first magnet mounted on a door and a second magnet mounted on a structure opposing the door (*i.e.*, the refrigerator body 20), the Morehouse patent does not disclose selecting means taking the form of a ***magnet holder which receives and permits rotatable movement of either the first magnet or the second magnet with respect to and within the holder.*** Indeed, none of

the configurations of the Morehouse patent disclose a magnet holder which receives and permits rotatable movement of a permanent magnet with respect to and within the holder. While Figures 12-15 do disclose a holder 71 to which a pair of permanent magnet members 69,70 are fastened, holder 71 does not *receive* magnets 69,70 nor does it permit *rotatable movement* of magnets 69,70 within or even on the holder per se. All that the Morehouse patent teaches is mounting magnets 69,70 on holder 71 and rotating the position of magnets 69,70 with respect to another pair of magnets by handle 73, but not with respect to holder 71. In fact, magnets 69,70 do not move or rotate at all with respect to or within holder 71, but maintain their position relative to holder 71, even as handle 73 is rotated through an arc.

In the absence of a teaching of the selecting means of independent claim 1, as hereby amended, Applicant submits that this claim is patentable over the Morehouse patent and respectfully requests reconsideration and withdrawal of the rejection.

As discussed above with respect to the rejection based on the Parker patent, independent claims 5 and 13 call for a magnetic door latch for use with a door and doorframe combination, where the door has an edge surface disposed in facing relationship with a surface of the doorframe when the door is closed within and encompassed by the doorframe. For both claims, the magnetic latch comprises (1) a first magnet mounted in the edge surface of the door and (2) a second magnet mounted in the surface of the doorframe disposed in facing relationship with the edge surface of the door when the door is closed within and encompassed by the doorframe. Like the Parker patent, the Morehouse patent fails to disclose a magnetic latch for use with a door and doorframe combination. Indeed, the Morehouse patent discloses a door for a refrigerator

brought into magnetic contact with the walls of the refrigerator body. The door of the refrigerator, however, has no edge surface disposed in facing relationship with a surface of the wall of the refrigerator body, nor can the door of the refrigerator be closed within and encompassed by the walls of the refrigerator, as recited in amended claims 5 and 13. In addition, the Morehouse patent fails to disclose a first magnet mounted in the edge surface of the door, nor a second magnet mounted in a surface of the doorframe disposed in facing relationship with the edge surface of the door when the door is closed within and encompassed by the doorframe. Instead, and as noted in column 2, lines 17 through 24 of the Morehouse patent, the magnets are mounted in the heat insulating means disposed in the sidewall of the refrigerator body. Similarly, and with respect to the embodiment of Figures 12-15, the permanent magnets 63 and 64 are fixedly secured within the body 65 of the refrigerator. *See* column 3, lines 48-51, emphasis added. In the absence of a teaching of (1) a magnetic latch for a door and doorframe combination, where the door has an edge surface disposed in facing relationship with a surface of the doorframe when the door is closed within and encompassed by the doorframe, (2) a first magnet mounted in the edge surface of the door, and (3) a second magnet mounted in the surface of the doorframe disposed in facing relationship with the edge surface of the door when the door is closed within and encompassed by the doorframe, Applicant submits that the Morehouse patent fails to anticipate the inventions of independent claims 5 and 13.

Applicant submits that amended claim 12 is patentable over the Morehouse patent for the same reasons as those discussed above with respect to claims 5 and 13, as claim 12 also calls for (1) a magnetic latch for a door and doorframe combination, where

the door has an edge surface disposed in facing relationship with a surface of the doorframe when the door is closed within and encompassed by the doorframe, (2) a first magnet mounted in the edge surface of the door, and (3) a second magnet mounted in the surface of the doorframe disposed in facing relationship with the edge surface of the door when the door is closed within and encompassed by the doorframe. Reconsideration and withdrawal of the rejection as to claim 12 is also, therefore, respectfully requested.

Claims 1-3 have been rejected under Section 102(b) as being anticipated by U.S. Patent No. 2,471,635 to Mark (the Mark patent). As noted above, claim 1 (the independent claim of the rejected group of claims, and as hereby amended) calls for a magnetic door stop, comprising a first magnet mounted on a door, a second magnet mounted on a structure opposing the door, and selecting means to allow a user to selectively orient one of the first magnet or the second magnet between a first position of repulsion between the first and second magnets and a second position of attraction between the first and second magnets, wherein the selecting means is a magnet holder which receives and permits rotatable movement of either the first magnet or the second magnet with respect to and within the holder.

According to the Examiner, the Mark patent discloses a first magnet 6, a second magnet 12,13 and a magnet holder 8 comprising a bottom and two opposing sidewalls extending therefrom (as shown on the face of the patent).

In response, Applicant submits that the Mark patent fails to anticipate the invention of amended claim 1, as this claim calls for a magnetic **door stop**. The mark patent, however, has no such disclosure; it discloses a magnetic closure and seal for a refrigerator.

While the Mark patent arguably discloses a first magnet mounted on a door and a second magnet mounted on a structure opposing the door (*i.e.*, the refrigerator body 20), the Mark patent does not disclose selecting means taking the form of a ***magnet holder which receives and permits rotatable movement of either the first magnet or the second magnet with respect to and within the holder.*** Indeed, none of the configurations of the Mark patent disclose a magnet holder which receives and permits rotatable movement of a permanent magnet with respect to and within the holder. What the Mark patent does disclose is electromagnets 12 positioned within channel shaped supports of non-magnetic material having an inner web 8 and spaced parallel sides 9 which are turned outwardly in flanges 10 as shown. The electromagnets 12 are not, however, received within a holder which permits rotatable movement of electromagnets with respect to and within the holder. In fact, the electromagnets are permanently affixed to parallel sides 9 by screws 14. Thus, electromagnets 12 (arguably, the equivalent of the claimed first or second magnet) are not rotatably movable within a holder, as claimed. Failing to disclose the claimed door stop and magnet holder of claim 1, as hereby amended, Applicant submits that the Mark patent fails to anticipate the claim. Reconsideration and withdrawal of the rejection is, therefore, respectfully submitted.

***Rejections under 35 U.S.C. § 103***

Finally, the Examiner has rejected claims 5 and 7 as being unpatentable over U.S. Patent No. 3,647,165 to Whitla ("the Whitla patent").<sup>1</sup> According to the Examiner,

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<sup>1</sup> Although the rejection is listed under the heading "Claim Rejections - 35 U.S.C. § 103, the actual discussion of the rejection refers to Section 102(b) and the Whitla patent as "anticipating" the noted claims, as well as obviousness under Section 103. Applicant responds to the rejection as one under Section 103.

although the Whitla patent discloses a permanent magnet **42** on the door and an electromagnet on the door frame, it would have been obvious to one of ordinary skill in the art to reverse their respective locations as a design choice.

Like the Parker and Morehouse patents, the Whitla patent most significantly fails to teach a magnetic latch for use with a door and doorframe combination, where the door has an edge surface disposed in facing relationship with a surface of a doorframe when the door is closed within and encompassed by the doorframe. Instead, the Whitla patent discloses an aircraft compartment and magnetic connecting assembly.

Additionally, the Whitla patent fails to disclose (1) a first magnet, wherein the first magnet is mounted in the edge surface of the door, (2) a second magnet, wherein the second magnet is a permanent magnet mounted in the surface of the doorframe disposed in facing relationship with the edge surface of the door when the door is closed within and encompassed by the doorframe, and (3) means for selectively orienting the first magnet between a first position of repulsion between the first magnet and the second magnet and a second position of attraction between the first magnet and the second magnet, wherein in the first position of repulsion the first magnet and the second magnet decelerate the door as the door is moved towards and closed within the doorframe. While the Whitla patent does disclose magnets **28,30** mounted on the door of the compartment, the magnets are mounted on an interior surface, rather than in an edge surface of the door that is disposed in facing relationship with a surface of the doorframe when the door is closed within and encompassed by the doorframe. Similarly, the Whitla patent does not disclose a second magnet mounted in a surface of a doorframe

disposed in facing relationship with the edge surface of the door when the door is closed within and encompassed by the doorframe. In the absence of such teachings or a suggestion to reposition the magnets or reconfigure the orientation of the hinged door to the compartment, Applicant submits that claim 5, as hereby amended, is patentable over the Whitla patent.

Moreover, Applicant also notes that an objective of the Whitla patent is to avoid the use of mechanical latches, the very structure of the present invention. *See* Column 1, lines 41-53. Since the Whitla patent teaches against the use of mechanical latches, fails to disclose or suggest the claimed structure, and also fails to disclose or suggest the use of repulsive magnetic forces to decelerate movement of a door as it is moved towards and closed within a doorframe, as claimed, Applicant submits that amended claim 5 is patentable over the Whitla patent. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

### ***Conclusion***

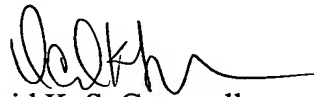
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this

application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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Date: September 23, 2005

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